



California Regional Water Quality Control Board

San Francisco Bay Region

Terry Tamminen
Secretary for
Environmental
Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.swrcb.ca.gov/rwqcb2>



Arnold Schwarzenegger
Governor

OCT 08 2004

File No: 2169.6003 (MLZ)

CERTIFIED MAIL NO. 70032260000212595479
RETURN RECEIPT REQUESTED

Mr. Greg Bosscawen
Plant Manager
Pacific Gas and Electric Company
1000 Evans Avenue
San Francisco, CA 94124

RE: Mandatory Minimum Penalty assessed under Water Code Sections 13385 (h) and (i)

Dear Mr. Bosscawen:

Enclosed is Complaint No. R2-2004-0083. The Complaint alleges that there was one serious violation of Pacific Gas and Electric Company's NPDES permit on July 14, 2000. This violation is a chlorine residual instantaneous maximum effluent limit violation. This effluent limit violation is subject to a mandatory minimum penalty under Sections 13385 (h) and/or (i) of the California Water Code for a total mandatory minimum penalty of \$3,000.

I plan to bring this matter to the Water Board at its November 17, 2004 meeting. You have three options:

1. You can appear before the Water Board at the meeting to contest the matter. Written comments are due by 5:00 p.m., October 16, 2004. At the meeting the Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the case to the Attorney General to have a Superior Court consider imposition of a penalty.
2. You can waive the right to a hearing by signing the waiver included in the Complaint and checking the first box. There will be no hearing on this matter, provided no significant public comment is received by Water Board staff prior to close of the comment period. By checking the first box and signing the waiver you agree to pay the liability within 30 days after the signed waiver becomes effective.
3. You can waive the right to a hearing and agree to undertake a Supplemental Environmental Project (SEP) by signing the waiver and checking the second box. There will be no hearing on this matter, provided no significant public comment is received by Water Board staff upon closure of the comment period. By checking the second box and signing the waiver, you

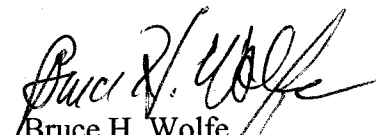
Mr. Greg Bosscawen
Pacific Gas and Electric Company

MMP R2-2004-0083

agree to complete an SEP in lieu of paying a suspended amount of up to \$3,000 of the penalty and remit the balance of the fine to the State Water Pollution Cleanup and Abatement Account within thirty (30) days after the signed waiver becomes effective. Note that the SEP must be acceptable to the Executive Officer of the Water Board. If the Executive Officer determines that either, the SEP proposal is not acceptable, or the SEP is not adequately completed within the approved time schedule, you will be required to pay the suspended liability within 30 days of notification by the Executive Officer.

For options 2 or 3 above, you are requested to mail and fax a copy of the signed waiver to the attention of Myriam Zech at (510) 622-2501 no later than 5:00 p.m., October 16, 2004, and if you intend to complete an SEP, a preliminary proposal must accompany the waiver for approval of concept. If you have any questions regarding this matter, please contact Myriam Zech of my staff at (510) 622-5684 or email mlz@rb2.swrcb.ca.gov.

Sincerely,



Bruce H. Wolfe
Executive Officer

OCT 08 2004

Enclosure: Complaint No. R2-2004-0083

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. R2-2004-0083
MANDATORY MINIMUM PENALTY
IN THE MATTER OF
PACIFIC GAS AND ELECTRIC COMPANY
HUNTERS POINT POWER PLANT
SAN FRANCISCO, SAN FRANCISCO COUNTY**

This complaint assesses Mandatory Minimum Penalties (MMPs) pursuant to Water Code Section 13385(h) and (i). It is issued to Pacific Gas and Electric Company (hereafter Discharger) based on a finding of a violation of Waste Discharge Requirements Order No. 94-057 (NPDES No. CA0005649), adopted on May 18, 1994, and currently in effect.

The Executive Officer finds the following:

1. On May 18, 1994, the Water Board adopted Order No. 94-057 for the Discharger, to regulate discharges of waste from its facility. Order No. 94-057 became effective on May 18, 1994, and was extended to the current date.
2. Water Code Section 13385(h)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
3. Water Code Section 13385(h)(2) defines a "serious violation" as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.
4. Water Code Section 13385(i) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the Discharger does any of the following four or more times in any six consecutive months:
 - a) Violates a waste discharge requirement effluent limitation.
 - b) Fails to file a report pursuant to Section 13260.
 - c) Files an incomplete report pursuant to Section 13260.
 - d) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
5. Under Effluent Limitations, Order No. 94-057 mentions that the discharge shall not contain a chlorine residual in excess of 0.0 mg/l instantaneous maximum.
6. On July 14, 2000, the Discharger registered a chlorine residual of 0.1 mg/l, thereby exceeding its limit as stated in its NPDES permit.

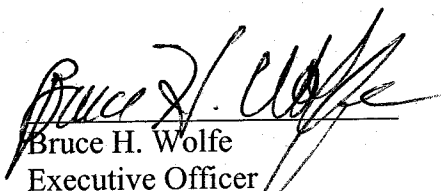
7. This is a serious violation because chlorine residual is a Group 2 pollutant and the violation exceeds the effluent limitation by 20 percent or more. This serious violation is subject to an MMP of \$3,000 under Section 13385 (h) (1).
8. Water Code Exception
Water Code Section 13385(j) provides some exceptions related to the assessment of MMPs for effluent limit violations. None of the exceptions apply to the violations cited in this Complaint.
9. MMP Assessment
The MMP for this serious effluent limit violation is \$3,000. The total MMP amount for this Complaint is \$3,000.
10. Suspended MMP Amounts
Instead of paying the full penalty amount, the Discharger may spend an amount of up to \$3,000 on a SEP acceptable to the Executive Officer. Any such amount expended to satisfactorily complete a SEP will be permanently suspended.
11. SEP Categories
If the Discharger chooses to propose a SEP, the proposed SEP shall be in one of the following categories:
 - a) Pollution prevention;
 - b) Pollution reduction;
 - c) Environmental clean-up or restoration; and
 - d) Environmental education.

PACIFIC GAS AND ELECTRIC COMPANY IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer proposes that the Discharger be assessed an MMP in the total amount of \$3,000.
2. The Water Board will hold a hearing on this Complaint on November 17, 2004, unless the Discharger waives the right to a hearing by signing the attached waiver form and checks the appropriate box. By doing so, the Discharger agrees to:
 - a) Pay the full penalty of \$3,000 within 30 days after the signed waiver becomes effective; or,
 - b) Propose a SEP in an amount equivalent to a maximum of \$3,000. Pay the balance of the penalty within 30 days after the signed waiver becomes effective. The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty of \$3,000.
3. If the Discharger chooses to propose a SEP, it must submit a preliminary proposal by October 16, 2004 to the Executive Officer for conceptual approval. Any SEP proposal shall also conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002 and the attached Standard Criteria and Reporting Requirement for Supplemental Environmental Project. If the proposed SEP is not acceptable to the Executive Officer, the

Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended penalty. All payments, including any money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.

4. The signed waiver will become effective on the day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.
5. If a hearing is held, the Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider imposition of a penalty.


Bruce H. Wolfe
Executive Officer

OCT 08 2004

Date

Attachment A: Standard criteria and reporting requirement for supplemental environmental project

WAIVER

(The signed waiver will become effective on the day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.)

- ☐ Waiver of the right to a hearing and agree to make payment in full.
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violation alleged in Complaint No. R2-2004-0083 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o State Water Resources Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the signed waiver becomes effective as indicated above. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.

- ☐ Waiver of the right to a hearing and agree to make payment and undertake a SEP.
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violation alleged in Complaint No. R2-2004-0083, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability up to \$3,000. I also agree to remit payment of the balance of the fine to the State Water Pollution Cleanup and Abatement Account within 30 days after the signed waiver becomes effective. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay the suspended penalty amount for the SEP within 30 days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to satisfactorily complete the approved SEP within a time schedule set by the Executive Officer.

Name (print)

Signature

Date

Title/Organization